

**STATE OF INDIANA
Board of Tax Review**

ALCOA CLOSURE SYSTEMS)	On Appeal from the Marion County
INTERNATIONAL)	Property Tax Assessment Board
)	of Appeals
Petitioner,)	
)	
v.)	Petition for Review of Assessment, Form 131
)	Petition No. 49-900-99-1-7-00864 ¹
MARION COUNTY PROPERTY TAX)	Parcel No. I115478
ASSESSMENT BOARD OF APPEALS)	
And WAYNE TOWNSHIP ASSESSOR,)	
)	
Respondents.)	

Findings of Fact and Conclusions of Law

On January 1, 2002, pursuant to Public Law 198-2001, the Indiana Board of Tax Review (IBTR) assumed jurisdiction of all appeals then pending with the State Board of Tax Commissioners (SBTC), or the Appeals Division of the State Board of Tax Commissioners (Appeals Division). For convenience of reference, each entity (the IBTR, SBTC, and Appeals Division) is hereafter, without distinction, referred to as "State". The State having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

Issue

Whether the change by the Wayne Township Assessor's office to the reported depreciable assets was correct.

¹ The petition number 49-900-99-3-7-00864 has been changed to 49-900-99-1-7-00864 to reflect the correct type of petition.

Findings of Fact

1. If appropriate, any finding of fact made herein shall also be considered a conclusion of law. Also if appropriate, any conclusion of law made herein shall also be considered a finding of fact.

2. Pursuant to Ind. Code § 6-1.1-15-3, Alcoa Closure Systems International (Petitioner) filed a Form 131 petition requesting a review by the State. The Form 131 petition was filed on April 24, 2000. The determination of the Marion County Property Tax Assessment Board of Appeals (PTABOA) on the underlying Form 130 is dated March 27, 2000.

3. Pursuant to Ind. Code § 6-1.1-15-4, a hearing was held on October 30, 2001 before Hearing Officer Paul Stultz. Testimony and exhibits were received into evidence. Ms. Deborah Dillinger, Administrator – Property Taxes, represented the Petitioner. Ms. Tara Acton, Deputy Assessor, and Ms. Jewell Powell, Deputy Assessor, represented Wayne Township.

4. At the hearing, the Form 131 petition was made a part of the record and labeled as Board’s Exhibit A. Notice of Hearing on Petition is labeled as Board’s Exhibit B. In addition, the following exhibits were submitted:
Board’s Exhibit C – Continuance/Waiver.
Board’s Exhibit D – Request for Additional Evidence.

Petitioner’s Exhibit 1 – Standard Classification of Assets.

Petitioner’s Exhibit 2 – Copies of consolidated federal tax schedule L, with amounts for the subsidiaries.

Petitioner’s Exhibit 3 – Copy of Fixed Assets Reserve Ledger as of December 1998.

Respondent’s Exhibit 1 – copy of Tangible Personal Property Return, Forms 103 and 104.

5. The subject property is personal property located at 2485 Directors Row, Indianapolis, Wayne Township, Marion County.
6. The Hearing Officer did not view the subject property.
7. At the hearing, the parties agreed the year under appeal is 1999 and the assessed value of record is \$222,190.

Whether the change to the depreciable assets was correct

8. Ms. Dillinger stated she received notice that the Wayne Township Assessor's Office had changed the Petitioner's 1999 personal property filing to match the Petitioner's 1998 filing. (Dillinger testimony).
9. Ms. Dillinger claimed that the 1998 filing was incorrect for the following reasons:
 - 1) the pooling of the assets was based on book life, not federal tax life; and
 - 2) the cost difference was due to excluding non-taxable assets and dispositions and transfers between March 1, 1998 and March 1, 1999.
10. Ms. Acton expressed concern about the lack of information provided by the Petitioner during the PTABOA Hearing process. (Acton testimony).
11. At the hearing, the Hearing Officer requested additional information from the Petitioner. (Board's Exhibit D).
12. The response to this request was received by mail on November 7, 2001. The evidence received was made a part of the record as Petitioner's Exhibit 4 – containing: a) a letter, b) a copy of Hearing Officer's Request, c) a reconciliation to Form 103, and d) a listing of assets at the Indianapolis location. Petitioner's Exhibit 5, a copy of fixed assets reserve ledger for company and all subsidiaries, was also received on November 7, 2001.

13. The Township Assessor's office responded to the above evidence in a letter on November 20, 2001. The letter is made a part of the record as Respondent's Exhibit 2. The letter from the Township Assessor's office stated that after reviewing the evidence, the total cost of the assets should be \$1,085,988, and the assessed value should be \$108,600. The value reported by the Petitioner on the Form 103 was \$108,600.

Conclusions of Law

1. The Petitioner is limited to the issues raised on the Form 130 petition filed with the Property Tax Assessment Board of Appeals (PTABOA) or issues that are raised as a result of the PTABOA's action on the Form 130 petition. 50 IAC 17-5-3. See also the Forms 130 and 131 petitions authorized under Ind. Code §§ 6-1.1-15-1, -2.1, and -4. In addition, Indiana courts have long recognized the principle of exhaustion of administrative remedies and have insisted that every designated administrative step of the review process be completed. *State v. Sproles*, 672 N.E. 2d 1353 (Ind. 1996); *County Board of Review of Assessments for Lake County v. Kranz* (1964), 224 Ind. 358, 66 N.E. 2d 896. Regarding the Form 130/131 process, the levels of review are clearly outlined by statute. First, the Form 130 petition is filed with the County and acted upon by the PTABOA. Ind. Code §§ 6-1.1-15-1 and -2.1. If the taxpayer, township assessor, or certain members of the PTABOA disagree with the PTABOA's decision on the Form 130, then a Form 131 petition may be filed with the State. Ind. Code § 6-1.1-15-3. Form 131 petitioners who raise new issues at the State level of appeal circumvent review of the issues by the PTABOA and, thus, do not follow the prescribed statutory scheme required by the statutes and case law. Once an appeal is filed with the State, however, the State has the discretion to address issues not raised on the Form 131 petition. *Joyce Sportswear Co. v. State Board of Tax Commissioners*, 684 N.E. 2d 1189, 1191 (Ind. Tax 1997). In this appeal, such discretion will not be exercised and the Petitioner is limited to the issues raised on the Form 131 petition filed with the State.

2. The State is the proper body to hear an appeal of the action of the County pursuant to Ind. Code § 6-1.1-15-3.

A. Burden

3. In reviewing the actions of the County, the State is entitled to presume that its actions are correct. “Indeed, if administrative agencies were not entitled to presume that the actions of other administrative agencies were in accordance with Indiana law, there would be a wasteful duplication of effort in the work assigned to agencies.” *Bell v. State Board of Tax Commissioners*, 651 N.E. 2d 816, 820 (Ind. Tax 1995). The taxpayer must overcome that presumption of correctness to prevail in the appeal.
4. It is a fundamental principle of administrative law that the burden of proof is on the person petitioning the agency for relief. 2 Charles H. Koch, Jr., *Administrative Law and Practice*, § 5.51; 73 C.J.S. Public Administrative Law and Procedure, § 128.
5. Taxpayers are expected to make factual presentations to the State regarding alleged errors in assessment. *Whitley*, 704 N.E. 2d at 1119. These presentations should both outline the alleged errors and support the allegations with evidence. “Allegations, unsupported by factual evidence, remain mere allegations.” *Id* (citing *Herb v. State Board of Tax Commissioners*, 656 N.E. 2d. 890, 893 (Ind. Tax 1995)). The State is not required to give weight to evidence that is not probative of the errors the taxpayer alleges. *Whitley*, 704 N.E. 2d at 1119 (citing *Clark v. State Board of Tax Commissioners*, 694 N.E. 2d 1230, 1239, n. 13 (Ind. Tax 1998)).
6. The taxpayer is required to meet his burden of proof at the State administrative level for two reasons. First, the State is an impartial adjudicator, and relieving the taxpayer of his burden of proof would place the State in the untenable

position of making the taxpayer's case for him. Second, requiring the taxpayer to meet his burden in the administrative adjudication conserves resources.

7. To meet his burden, the taxpayer must present probative evidence in order to make a prima facie case. In order to establish a prima facie case, the taxpayer must introduce evidence "sufficient to establish a given fact and which if not contradicted will remain sufficient." *Clark*, 694 N.E. 2d at 1233; *GTE North, Inc. v. State Board of Tax Commissioners*, 634 N.E. 2d 882, 887 (Ind. Tax 1994).
8. In the event a taxpayer sustains his burden, the burden then shifts to the local taxing officials to rebut the taxpayer's evidence and justify its decision with substantial evidence. 2 Charles H. Koch, Jr. at §5.1; 73 C.J.S. at § 128. See *Whitley*, 704 N.E. 2d at 1119 (The substantial evidence requirement for a taxpayer challenging a State Board determination at the Tax Court level is not "triggered" if the taxpayer does not present any probative evidence concerning the error raised. Accordingly, the Tax Court will not reverse the State's final determination merely because the taxpayer demonstrates flaws in it).

B. Whether the change to the depreciable assets was correct

9. The depreciable life utilized for federal income tax purposes determines the pool to be used for Indiana property tax purposes. 50 IAC 4.2-4-5(a).
10. Based on the testimony and evidence presented, including the letter from the Township Assessor, the assessed value should be \$108,600.

The above stated findings and conclusions are issued in conjunction with, and serve as the basis for, the Final Determination in the above captioned matter, both issued by the Indiana Board of Tax Review this ____ day of _____, 2002.

Chairman, Indiana Board of Tax Review